

**Unofficial Draft Copy**

As of: May 1, 2012 (1:19pm)

LCSC10

\*\*\*\* Bill No. \*\*\*\*

**SCEG**

**MAY 15, 2012**

Introduced By \*\*\*\*\*

**EXHIBIT 5**

By Request of the Select Committee on Efficiency in Government

A Bill for an Act entitled: "An Act creating a fine for receiving assets that were transferred to qualify an applicant or recipient for medicaid."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION.    **Section 1. Receipt of transferred assets for less than fair market value -- fine.** (1) A person who receives an asset for less than fair market value from an applicant for or recipient of medical assistance under this part is subject to a civil fine payable to the department if the department initiates a judicial proceeding and shows by a preponderance of the evidence that:

(a) the asset has a fair market value equal to or greater than \$60,000 and was transferred to qualify the applicant or recipient for medical assistance under this part;

(b) the transfer resulted in the imposition of a period of ineligibility for medical assistance under 53-6-166;

(c) the department advised the person who received the asset that the transfer would result in a period of ineligibility, and the person refused to return the asset to the applicant or recipient; and

(d) the department provided medical assistance to the

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applicant or recipient during the period of ineligibility because the applicant or recipient received an undue hardship exception under 53-6-166.

(2) A court may impose a civil fine of 100% to 150% of the amount that the department paid for medical assistance for the applicant or recipient during the period of ineligibility that is attributable to the amount transferred to the person receiving the asset, plus the department's court costs and attorney fees.

(3) A transfer that is subject to a civil fine under this section is void.

(4) The department may petition a court to set aside a transfer that is void under this section and to require the return of the transferred asset to the applicant or recipient.

## NEW SECTION. Section 2. {standard} Codification

**instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

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